

**CALIFORNIA CODES GOVERNING  
THE CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
THE GOVERNMENT CLAIMS PROGRAM  
2004**

**Title 1. Division 3.6  
Tort Claims Act  
Part 3. Claims Against Public Entities**

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*(All referenced code sections are from the Government Code unless noted otherwise)*

**TORT CLAIMS ACT**

**Chapter 1. General**

**§ 900. Definitions governing construction of part**

Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part.

**§ 900.2. Board**

"Board" means:

- (a) In the case of a local public entity, the governing body of the local public entity.
- (b) In the case of the state, except as provided by subdivision (c), the Victim Compensation and Government Claims Board.
- (c) In the case of a judicial branch entity or judge of one of those entities, the Judicial Council.

**§ 900.3. Judicial branch**

A "judicial branch entity" is a public entity and means any superior court, court of appeals, the Supreme Court, the Judicial Council, or the Administrative Office of the Courts.

**§ 900.4. Local public entity**

"Local public entity" includes a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State, but does not include the State.

**§ 900.6. State**

"State" means the State and any office, officer, department, division, bureau, board, commission or agency of the State claims against which are paid by warrants drawn by the Controller.

**§ 901. Date of accrual of cause of action**

For the purpose of computing the time limits prescribed by Sections 911.2, 911.4, 912, and

945.6, the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirement that a claim be presented to and be acted upon by the public entity before an action could be commenced thereon. However, the date upon which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the complaint giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the public entity.

**§ 905. Presentation of claims against local public entities; Exceptions**

There shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part all claims for money or damages against local public entities except:

- (a) Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee or charge or any portion thereof, or of any penalties, costs or charges related thereto.
- (b) Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers' or materialmen's liens.
- (c) Claims by public employees for fees, salaries, wages, mileage or other expenses and allowances.
- (d) Claims for which the workmen's compensation authorized by Division 4 (commencing with Section 3201) of the Labor Code is the exclusive remedy.
- (e) Applications or claims for any form of public

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assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance.

(f) Applications or claims for money or benefits under any public retirement or pension system.

(g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.

(h) Claims which relate to a special assessment constituting a specific lien against the property assessed and which are payable from the proceeds of such an assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it.

(i) Claims by the State or by a state department or agency or by another local public entity.

(j) Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.

(k) Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(l) Claims governed by the Pedestrian Mall Law of 1960, Part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code.

§ 905.1. Inverse condemnation; claim unnecessary to maintain action; procedure if claim filed

No claim is required to be filed to maintain an action against a public entity for taking of, or damage to, private property pursuant to Section 19 of Article I of the California Constitution. However, the board shall, in accordance with the provisions of this part, process any claim which is filed against a public entity for the taking of, or damage to, private property pursuant to Section 19 of Article I of the California Constitution.

§ 905.2. Claims for money or damages against state

There shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part all claims for money or damages against the state:

(a) For which no appropriation has been made or for which no fund is available but the settlement of which has been provided for by statute or constitutional provision.

(b) For which the appropriation made or fund designated is exhausted.

(c) For money or damages (1) on express contract, or (2) for an injury for which the state is liable.

(d) For which settlement is not otherwise provided for by statute or constitutional provision.

§ 905.3. Claims against state for additional reimbursement

Notwithstanding any other provision of law to the contrary, no claim shall be submitted by a local agency or school district, nor shall a claim be considered by the State Board of Control pursuant to Section 905.2, if that claim is eligible for consideration by the Commission on State Mandates pursuant to Article 1 (commencing with Section 17550) of Chapter 4 of Part 7 of Division 4 of Title 2.

§ 905.4. Chapters 1 and 2 not exclusive means for presenting claims

Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part shall not be construed to be an exclusive means for presenting claims to the Legislature nor as preventing the Legislature from making such appropriations as it deems proper for the payment of claims against the State which have not been submitted to the board or recommended for payment by it pursuant to Chapters 1 and 2 of this part.

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§ 905.5. School districts' civil liability for asbestos exposures

A school district, its officers, directors, or employees shall have no civil liability in any civil action for injury, disease, death, or economic loss arising out of exposure on or after January 1, 1989, to asbestos contained in buildings owned, leased, or otherwise used by a school district, except upon proof that the injury, disease, death, or economic loss was caused by the negligence of the school district, its officers, directors, or employees. Notwithstanding the provisions of Section 815.6 of the Government Code and Section 669 of the Evidence Code, no presumption of negligence shall apply to any action under this section. This section applies only to actions against school districts, and shall not apply to any other action, including, but not limited to, actions against a manufacturer, contractor, or any person who makes, sells, distributes, furnishes, or installs asbestos-containing materials. This section shall not affect, alter, or otherwise modify the law pertaining to workers' compensation claims. This section shall not affect the right of a school district, its officers, directors, or employees to seek indemnification.

§ 905.6. Claims against regents of University of California

This part does not apply to claims against the Regents of the University of California.

§ 905.8. Necessity of existence of liability  
Nothing in this part imposes liability upon a public entity unless such liability otherwise exists.

§ 906. Amount allowed on the claim; interest; agreement to vary terms; settle or compromise claim

(a) As used in this section, "amount allowed on the claim" means the amount allowed by the public entity on a claim allowed in whole or in part or the amount offered by the public entity to settle or compromise a claim.

(b) Except as provided in subdivision (c):

(1) No interest is payable on the amount allowed

on the claim if payment of the claim is subject to approval of an appropriation by the Legislature; but, if an appropriation is made for the payment of a claim described in this paragraph, interest on the amount appropriated for the payment of the claim commences to accrue 30 days after the effective date of the law by which the appropriation is enacted.

(2) Interest on the amount allowed on the claim, other than a claim described in paragraph (1), commences to accrue 30 days after the claimant accepts in writing the amount allowed on the claim in settlement of the entire claim.

(3) Interest on the amount allowed on the claim accrues at the rate provided for judgments until paid.

(c) The public entity and the claimant may agree in writing to vary the terms prescribed by subdivision (b), including but not limited to, any one or more of the following:

(1) An agreement that no interest will be payable on the amount allowed on the claim.

(2) An agreement that interest on the amount allowed on the claim will commence to accrue at a time other than the time specified in paragraph (1) or (2) of subdivision (b).

(3) An agreement that interest on the amount allowed on the claim will accrue at a different rate than is specified in paragraph (3) of subdivision (b).

(d) The public entity may allow a claim in whole or in part, or may offer to settle or compromise a claim, upon the condition that the claimant agree in writing to a provision that varies the terms prescribed in subdivision (b). The acceptance by the claimant in writing of the amount allowed on the claim in settlement of the entire claim subject to such condition creates a written agreement that satisfies the requirements of subdivision (c).

(e) Nothing in this section limits the rights of a claimant to interest on a judgment obtained against a public entity.

§ 907. Offset of delinquent amount due for services

A local public entity, as defined in [Section 900.4](#), may offset any delinquent amount due it for services rendered to any other local public



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entity. The offset may be charged, against any amount reciprocally owing, upon the giving of 30 days advance written notice, if no written dispute is received from the debtor within the 30-day notice period. Notices from the creditor or the debtor shall be made through certified mail. If the offset would result in the debtor's inability to meet encumbered bonded indebtedness repayments, the debtor shall so state in a written dispute within the time period stated above. If a dispute notice is received and the dispute is subsequently resolved in favor of the entity to whom an amount is due, interest on the principal amount from the date that amount was originally owing shall be assessed at the legal rate per annum established pursuant to [Section 685.010 of the Code of Civil Procedure](#). For purposes of this section, an amount reciprocally owing includes any tax revenue collected by a local public entity for disbursement to another local public entity

**Chapter 2. Presentation and Consideration of Claims**

**§ 910. Contents of Claim**

A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

- (a) The name and post office address of the claimant.
- (b) The post office address to which the person presenting the claim desires notices to be sent.
- (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
- (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
- (e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.
- (f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of

the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.

**§ 910.2. Signature**

The claim shall be signed by the claimant or by some person on his behalf. Claims against local public entities for supplies, materials, equipment or services need not be signed by the claimant or on his behalf if presented on a billhead or invoice regularly used in the conduct of the business of the claimant.

**§ 910.4. Forms**

The board shall provide forms specifying the information to be contained in claims against the public entity. The person presenting a claim shall use the form in order that his or her claim is deemed in conformity with Sections 910 and 910.2. A claim may be returned to the person if it was not presented using the form. Any claim returned to a person may be resubmitted using the appropriate form.

(b) The amendments made to this section by the act adding this subdivision shall become operative six months after the date that act takes effect.

**§ 910.6. Amendment of claim; failure or refusal to amend**

(a) A claim may be amended at any time before the expiration of the period designated in Section 911.2 or before final action thereon is taken by the board, whichever is later, if the claim as amended relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.

(b) A failure or refusal to amend a claim, whether or not notice of insufficiency is given under Section 910.8, shall not constitute a defense to any action brought upon the cause of action for which the claim was presented if the court finds that the claim as presented complied substantially with Sections 910 and 910.2 or a

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form provided under Section 910.4.

§ 910.8. Notice of insufficiency of claim  
If in the opinion of the board or the person designated by it a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, the board or such person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. Such notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after such notice is given.

§ 911. Failure to give notice of insufficiency; waiver of defenses based on defect or omission  
Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency with respect to such defect or omission as provided in Section 910.8, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

§ 911.2. Time of presentation of claims; limitation  
A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

§ 911.3. Claim presented without application; notice of return without action; form  
(a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented

after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim. Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code.

Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

(b) Any defense as to the time limit for presenting a claim described in subdivision (a) is waived by failure to give the notice set forth in subdivision (a) within 45 days after the claim is presented, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

§ 911.4. Application to present late claim; one year limitation; statement of reasons; tolling of limitations

(a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.

(b) The application shall be presented to the public entity as provided in Article 2

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(commencing with Section 915) within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application.

(c) In computing the one-year period under subdivision (b), the following shall apply:

(1) The time during which the person who sustained the alleged injury, damage, or loss as a minor shall be counted, but the time during which he or she is mentally incapacitated and does not have a guardian or conservator of his or her person shall not be counted.

(2) The time shall not be counted during which the person is detained or adjudged to be a dependent child of the juvenile court under the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code), if both of the following conditions exist:

(A) The person is in the custody and control of an agency of the public entity to which a claim is to be presented.

(B) The public entity or its agency having custody and control of the minor is required by statute or other law to make a report of injury, abuse, or neglect to either the juvenile court or the minor's attorney, and that entity or its agency fails to make this report within the time required by the statute or other enactment, with this time period to commence on the date on which the public entity or its agency becomes aware of the injury, neglect, or abuse. In circumstances where the public entity or its agency makes a late report, the claim period shall be tolled for the period of the delay caused by the failure to make a timely report.

(3) The time shall not be counted during which a minor is adjudged to be a dependent child of the juvenile court under the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code), if the minor is without a guardian ad litem or conservator for purposes of filing civil actions.

§ 911.6. Grant or denial of application by board

(a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

§ 911.8. Notice of board's action

(a) Written notice of the board's action upon the application shall be given in the manner prescribed by Section 915.4.

(b) If the application is denied, the notice shall include a warning in substantially the following form:

"WARNING"

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"If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

§ 912.2. Claim deemed presented to board on day leave to present claim granted  
If an application for leave to present a claim is granted by the board pursuant to Section 911.6, the claim shall be deemed to have been presented to the board upon the day that leave to present the claim is granted.

§ 912.4. Time for action by board; extension of time by agreement; failure or refusal to act within time prescribed  
(a) The board shall act on a claim in the manner provided in Section 912.6, 912.7, or 912.8 within 45 days after the claim has been presented. If a claim is amended, the board shall act on the amended claim within 45 days after the amended claim is presented.  
(b) The claimant and the board may extend the period within which the board is required to act on the claim by written agreement made either:  
(1) Before the expiration of the period.  
(2) After the expiration of the period if an action based on the claim has not been commenced and is not yet barred by the period of limitations provided in Section 945.6.  
(c) If the board fails or refuses to act on a claim within the time prescribed by this section, the claim shall be deemed to have been rejected by the board on the last day of the period within which the board was required to act upon the claim. If the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period

within which the board is required to act shall be the last day of the period specified in the agreement.

§ 912.6. Action by board on claim against local public entity  
(a) In the case of a claim against a local public entity, the board may act on a claim in one of the following ways:  
(1) If the board finds the claim is not a proper charge against the public entity, it shall reject the claim.  
(2) If the board finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim.  
(3) If the board finds the claim is a proper charge against the public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance.  
(4) If legal liability of the public entity or the amount justly due is disputed, the board may reject the claim or may compromise the claim.  
(b) In the case of a claim against a local public entity, if the board allows the claim in whole or in part or compromises the claim, it may require the claimant, if the claimant accepts the amount allowed or offered to settle the claim, to accept it in settlement of the entire claim.  
(c) Subject to subdivision (b), the local public entity shall pay the amount allowed on the claim or in compromise of the claim in the same manner as if the claimant had obtained a final judgment against the local public entity for that amount, but the claim may be paid in not exceeding 10 equal annual installments as provided in Section 970.6 only if the claimant agrees in writing to that method of payment and in such case no court order authorizing installment payments is required. If an agreement for payment of the claim in installments is made, the local public entity, in its discretion, may prepay any one or more installments or any part of an installment.

§ 912.7. Judicial Council  
The Judicial Council shall act on a claim against a judicial branch entity or judge of one those

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entities in accordance with the procedure that the Judicial Council provides by rule of court. The Judicial Council may authorize any committee of the Judicial Council or employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this part.

§ 912.8. Action by board on claims against state; procedure; report to legislature; recommendations

(a) Except as provided in Section 912.7, in the case of claims against the state, the board shall act on claims in accordance with that procedure as the board, by rule, may prescribe. It may hear evidence for and against the claims and, with the approval of the Governor, report to the Legislature those facts and recommendations concerning the claims as it deems proper. In making recommendations, the board may state and use any official or personal knowledge which any member may have regarding any claim. The board may authorize any employee of the state to perform the functions of the board under this part as are prescribed by the board.

§ 913. Notice of rejection of claim

(a) Written notice of the action taken under Section 912.6, 912.7, or 912.8 or the inaction which is deemed rejection under Section 912.4 shall be given in the manner prescribed by Section 915.4. The notice may be in substantially the following form:

"Notice is hereby given that the claim which you presented to the (insert title of board or officer) on (indicate date) was (indicate whether rejected, allowed, allowed in the amount of \$ \_\_\_\_\_ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable) on (indicate date of action or rejection by operation of law)."

(b) If the claim is rejected in whole or in part, the notice required by subdivision (a) shall include a warning in substantially the following form:

"WARNING"

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

§ 913.2. Re-examination of rejected claim

The board may, in its discretion, within the time prescribed by Section 945.6 for commencing an action on the claim, re-examine a previously rejected claim in order to consider a settlement of the claim.

§ 915. Presentation to local public entity or to state

(a) A claim, any amendment thereto, or an application to the public entity for leave to present a late claim shall be presented to a local public entity by either of the following means:  
(1) Delivering it to the clerk, secretary or auditor thereof;

(2) Mailing it to the clerk, secretary or auditor or to the governing body at its principal office.

(b) Except as provided in subdivision (c), a claim, any amendment thereto, or an application for leave to file a late claim shall be presented to the state by either of the following means:

(1) Delivering it to an office of the Victim Compensation and Government Claims Board.

(2) Mailing it to the Victim Compensation and Government Claims Board at its principal office.

(c) A claim, any amendment thereto, or an application for leave to file a late claim shall be presented to a judicial branch entity in accordance with the following means:

(1) Delivering or mailing it to the court executive officer, if against a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of that court.

(2) Delivering or mailing it to the clerk/administrator of the court of appeals, if against a court of appeals or judge of that court.

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(3) Delivering or mailing it to the Clerk of the Supreme Court, if against the Supreme Court or a judge of that court.

(4) Delivering or mailing it to the Secretariat of the Judicial Council, if against the Judicial Council the Administrative Office of the Courts.

(d) A claim, amendment or application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if it is actually received by the clerk, secretary, auditor or board of the local public entity, is actually received at an office of the Victim Compensation and Government Claims Board, or, if against a judicial branch entity or judge, it is actually received by the court executive officer, court clerk/administrator, court clerk, or secretariat of the judicial branch entity, within the time prescribed for presentation thereof.

(e) A claim, amendment or application shall be deemed to have been presented in compliance with this section to a public agency as defined in Section 53050 if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to that public agency which is on file at the time the claim, amendment or application is delivered or mailed. As used in this subdivision, "statement in the Roster of Public Agencies" means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which the statement or amended statement is on file.

**§ 915.2. Mailing manner; time of presentation and receipt; proof of mailing**

If a claim, amendment to a claim or application to a public entity for leave to present a late claim is presented or sent by mail under this chapter, or if any notice under this chapter is given by mail, the claim, amendment, application or notice shall be mailed in the manner prescribed in this section. The claim, amendment, application or notice shall be deposited in the United States post office, a mailbox, sub-post office, substation, mail chute, or other similar facility

regularly maintained by the government of the United States, in a sealed envelope, properly addressed, with postage paid. The claim, amendment, application or notice shall be deemed to have been presented and received at the time of the deposit. Any period of notice and any duty to respond after receipt of service of a claim, amendment, application, or notice is extended five days upon service by mail, if the place of address is within the State of California, 10 days if the place of address is within the United States, and 20 days if the place of address is outside the United States. Proof of mailing may be made in the manner prescribed by Section 1013a of the Code of Civil Procedure.

**§ 915.4. Manner of giving notice of insufficiency of claim, board's action upon application, or rejection of claim**

(a) The notices provided for in Sections 910.8, 911.8, and 913 shall be given by either of the following methods:

(1) Personally delivering the notice to the person presenting the claim or making the application.

(2) Mailing the notice to the address, if any, stated in the claim or application as the address to which the person presenting the claim or making the application desires notices to be sent or, if no such address is stated in the claim or application, by mailing the notice to the address, if any, of the claimant as stated in the claim or application.

(b) No notice need be given where the claim or application fails to state either an address to which the person presenting the claim or making the application desires notices to be sent or an address of the claimant.

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**§ 920. Omnibus claim appropriation**

As used in this chapter, "omnibus claim appropriation" means an act of appropriation, or an item of appropriation in a budget act, by which the Legislature appropriates a lump sum to pay the claim of the State Board of Control or its secretary against the State in an amount which

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the Legislature has determined is properly chargeable to the State.

§ 920.2. Submission to controller of claim covering full amount of omnibus claim appropriation

Promptly following the effective date of an omnibus claim appropriation, the board or its secretary shall submit to the Controller a claim covering the full amount of the appropriation made in the omnibus claim appropriation. Any such claim is exempt from the provisions of Chapter 4 (commencing with Section 925) of this part, and the board shall have those powers necessary to administer and disburse the omnibus claim appropriation.

§ 920.4. Withholding payment of questioned portion of omnibus claim appropriation; notice to joint legislative budget committee

If the Controller believes or has reason to believe that the payment of any portion of the omnibus claim appropriation may violate the provisions of the Constitution, he shall withhold payment of the questioned portion and shall issue his warrant for the remainder of the appropriation. The secretary, subject to the board's approval, shall promptly disburse the undisputed portion of the omnibus claim appropriation and shall promptly give notice to the Joint Legislative Budget Committee of the Controller's action concerning the withheld portion.

§ 920.6. Advice of committee; proceedings to compel controller to issue warrant for balance of appropriation

Unless the Joint Legislative Budget Committee within 60 days after receipt of such notice advises the board in writing that the Legislature desires to reconsider any part of the withheld portion, the board shall institute proceedings to compel the Controller to issue his warrant for the balance of the omnibus claim appropriation. The board shall prosecute any such proceeding to final determination and shall disburse the funds finally paid over to it. Funds subject to such proceedings shall continue to be available until

the end of the fiscal year in which final determination of the proceeding occurs.

§ 920.8. Decision to reconsider questioned portion of appropriation; action to compel payment of remainder

If the Joint Legislative Budget Committee advises the board that the Legislature desires to reconsider any part of the omnibus claim appropriation withheld by the Controller, no further action shall be taken with respect to that part and the money appropriated therefore shall revert to funds from which they were appropriated, pending further legislative action. The board, however, shall institute proceedings as provided in Section 920.6 to compel payment of the remainder of the omnibus claim appropriation withheld by the Controller.

Chapter 4. Presentation of Claims to State Controller

§ 925. Board

As used in this chapter, "board" means the State Board of Control.

§ 925.2. Claims exempt from chapter and section 13920

Claims for expenses of either house of the Legislature or members or committees thereof are exempt from Section 13920 and this chapter, except Section 925.6, and claims for official salaries fixed by statute are exempt from this chapter and Section 13920.

§ 925.4. Form and manner of presentation

Any person having a claim against the State for which appropriations have been made, or for which state funds are available, may present it to the Controller in the form and manner prescribed by the general rules and regulations adopted by the board for the presentation and audit of claims.

§ 925.6. Audit

(a) The Controller shall not draw his or her warrant for any claim until it has been audited by him or her in conformity with law and the

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general rules and regulations adopted by the board, governing the presentation and audit of claims. Whenever the Controller is directed by law to draw his or her warrant for any purpose, the direction is subject to this section.

(b) Notwithstanding the provisions of subdivision (a), the Assembly Committee on Rules, the Senate Committee on Rules, and the Joint Rules Committee, in cooperation with the Controller, shall adopt rules and regulations to govern the presentation of claims of the committees to the Controller. The Controller, in cooperation with the committees, shall adopt rules and regulations governing the audit and record keeping of claims of the committees. All rules and regulations shall be adopted by January 31, 1990, shall be published in the Assembly and Senate Journals, and shall be made available to the public.

(c) Rules and regulations adopted pursuant to subdivision (b) shall not be subject to the review by or approval of the Office of Administrative Law.

(d) Records of claims kept by the Controller pursuant to subdivision (b) shall be open to public inspection as permitted by the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

§ 925.8. Approval; drawing of warrant  
If the Controller approves a claim he shall draw his warrant for the amount approved in favor of the claimant.

§ 926. Disapproval; filing with board  
If he disapproves a claim, the Controller shall file it and a statement of his disapproval and his reasons with the board as prescribed in the rules and regulations of the board.

§ 926.2. Reconsideration of rejected claim  
The Controller shall not entertain for a second time a claim against the State once rejected by him or by the Legislature unless such facts are subsequently presented to the board as in suits between individuals would furnish sufficient ground for granting a new trial.

§ 926.4. Appeal to board  
Any person who is aggrieved by the disapproval of a claim by the Controller, may appeal to the board. If the board finds that facts are presented justifying such action, the Controller shall reconsider his rejection of the claim.

§ 926.6. Appeal to legislature; filing of notice; transmission of papers  
After final rejection of a claim by the Controller following reconsideration, any person interested may appeal to the Legislature by filing with the board a notice of appeal. Upon receipt of such notice the board shall transmit to the Legislature the rejected claim, all papers accompanying it, and a statement of the evidence taken before the board.

§ 926.8. Claim by federal agency against credits owing by state  
Whenever a governmental agency of the United States, in the collection of taxes or amounts owing to it, is authorized by federal law to levy administratively on credits owing to a debtor, it may avail itself of the provisions of this section and claim credits owing by the State to such debtor, in manner as follows:  
It shall file a certification of the facts with the state department, board, office or commission owing the credit to the debtor prior to the time the state agency presents the claims of the debtor therefore to the State Controller or to the State Personnel Board. The state agency in presenting the claim of the debtor shall note thereon the fact of the filing of the certificate and shall also note any amounts owed by the debtor to the State by reason of advances or for any other purpose. Subject to the provisions of Sections 12419.4 and 12419.5, the State Controller shall issue his warrant payable to the United States Treasurer for the net amount due the debtor, after offsetting for any amounts advanced to the debtor or by him owing to the State, or as much thereof as will satisfy in full the amount owing by the debtor to the United States as so certified; any balance shall be paid to the debtor.



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§ 926.10. Interest on liquidated claim against public entity

Any public entity as defined by Section 811.2 having a liquidated claim against any other public entity based on contract or statute of the State of California, or any person having such a claim against a public agency, shall be entitled to interest commencing the 61st day after such public entity or person files a liquidated claim known or agreed to be valid when filed pursuant to such statute or contract, and such claim is due and payable. Interest shall be 6 percent per annum.

§ 926.15. (Repealed by Stats 1998, ch. 916 § 4 (AB 2275) § 1)

§ 926.16. Penalty payments under 926.15; source of funds

Notwithstanding any other provision of law, no local assistance funds shall be used by any state agency to make penalty payments required under Section 926.15. All penalties shall be paid from funds appropriated for state administration or from any other fund, other than a local assistance fund, which is designated by the Controller as eligible for use to meet the requirements set forth in Section 926.15.

§ 926.17. Repealed by Stats. 1998, c. 916 § 4 (A.B. 2275)

§ 926.18. Repealed by Stats. 1998, c. 916 § 3 (A.B.2275)

§ 926.19. State agencies; failure to make payment or refund; interest; costs and fees

(a) Unless otherwise provided for by statute, any state agency that fails to pay a person any undisputed payment or refund due to that person shall be liable for interest on the undisputed amount pursuant to this section. The interest shall be paid out of the agency's funds and shall accrue at a rate equal to the interest accrued in the Pooled Money Investment Account minus 1 percent over the term that the payment or refund was held by the agency, beginning on the 31st day after the agency provides notice to the

person that a payment or refund is owed to that person or after the agency receives notice from the person that an undisputed payment or refund is due. The interest shall cease to accrue on the date full payment or refund is made.

(b) If the state agency's failure to make payment as required by this section is the result of a dispute between the state agency and the person to whom money is owed, interest shall begin to accrue on the 31st day after the dispute has been settled by mutual agreement, arbitration, or court decision. A state agency may dispute a payment or refund if the state agency so notifies the person within 15 days after the state agency receives notice from the person that the payment or refund is due.

(c) If the state agency is not authorized to make a payment or refund to a person pursuant to this section, that state agency shall submit the claim to the Controller's office within 15 days of receiving a claim, or shall be liable for an interest penalty beginning on the 16th day, which shall be paid out of the state agency's funds and shall continue to accrue until the claim is received by the Controller's office. After the claim is forwarded to the Controller's office, an interest penalty fee shall begin to accrue on the 16th day after receipt by the Controller's office, and shall be paid out of the Controller's funds. In any event, the interest penalty shall cease to accrue on the date full payment is made to the person.

(d)(1) In the event that a payment or refund is the joint responsibility of more than one state agency, not including the Controller's office, and neither agency is authorized to make a payment or refund, each agency shall forward the claim to the Controller's office within 15 days of receipt. Interest shall begin to accrue on the 16th day, pursuant to subdivision (c). Any accrued interest shall be the responsibility of the state agency that delays the transmittal of the claim to the Controller.

(2) If either of the responsible agencies is authorized to make a payment or refund directly to the person, each agency shall have 15 days to transmit the claim to the other agency or pay the person. Interest shall begin to accrue on the 16th

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day, and shall be the responsibility of the agency delaying the payment process.

(e) When a state agency is required by this section to pay penalties that accumulate in excess of one thousand dollars (\$1,000) in one fiscal year, the head of the state agency shall submit to the Legislature, within 60 days following the end of the fiscal year, a written report on the actions taken to correct the problem, including recommendations on actions to avoid a recurrence of the problem and recommendations as to statutory changes, if needed.

(f) A court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section where it is found that the state agency has violated this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof. In the case of disputed payments or refunds, nothing in this section shall be construed as precluding a court from awarding a prevailing party the interest accrued while the dispute was pending.

(g) No state agency shall seek additional appropriations to pay interest that accrues as a result of this section.

(h) No person shall receive an interest payment pursuant to this section if it is determined that the person has intentionally overpaid on a liability solely for the purpose of receiving interest.

(i) No interest shall accrue during any time period for which there is no Budget Act in effect, nor on any payment or refund that is the result of a federally mandated program or that is directly dependent upon the receipt of federal funds by a state agency.

(j) This section shall not apply to any of the following:

(1) Payments, refunds, or credits for income tax purposes.

(2) Payment of claims for reimbursement for health care services or mental health services provided under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) Any payment made pursuant to a public social service or public health program to a recipient of benefits under that program.

(4) Payments made on claims by the State Board of Control.

(5) Payments made by the Commission on State Mandates.

(6) Payments made by the Department of Personnel Administration pursuant to Section 19823.

Chapter 4.5 Prompt Payment Act omitted

Chapter 5. Claims Procedures Established by Agreement

§ 930. Agreement of state agency establishing claims procedure

(a) Any state agency may include in any written agreement to which the agency is a party, provisions governing the following:

(1) The presentation, by or on behalf of any party thereto, of any or all claims that are required to be presented to the board arising out of or related to the agreement.

(2) The consideration and payment of the claims described in paragraph (1).

(b) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission or agency of the state, claims against which are paid by warrants drawn by the Controller.

§ 930.2. Agreement of governing body of local public entity establishing claims procedure

The governing body of a local public entity may include in any written agreement to which the entity, its governing body, or any board or employee thereof in an official capacity is a party, provisions governing the presentation, by or on behalf of any party thereto, of any or all claims arising out of or related to the agreement and the consideration and payment of such claims. The written agreement may incorporate by reference claim provisions set forth in a specifically identified ordinance or resolution theretofore adopted by the governing body.

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§ 930.4. Application for leave to present claim not presented within required time

A claims procedure established by agreement made pursuant to Section 930 or Section 930.2 exclusively governs the claims to which it relates, except that if the procedure so prescribed requires a claim to be presented within a period of less than one year after the accrual of the cause of action and such claim is not presented within the required time, an application may be made to the public entity for leave to present such claim. Subdivision (b) of Section 911.4, Sections 911.6 to 912.2, inclusive, and Section 946.6 are applicable to all such claims, and the time specified in the agreement shall be deemed the "time specified in Section 911.2" within the meaning of Sections 911.6 and 946.6.

§ 930.6. Presentation of claim as prerequisite to suit

A claims procedure established by agreement made pursuant to Section 930 or Section 930.2 may include a requirement that a claim be presented and acted upon as a prerequisite to suit thereon. If such requirement is included, any action brought against the public entity on the claim shall be subject to the provisions of Section 945.6 and Section 946.

**Chapter 6. Claims Procedures Established by Public Entities**

§ 935. Procedure established by charter; ordinance or regulation of local public entity; requirements

(a) Claims against a local public entity for money or damages which are excepted by Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part, and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedure prescribed in any charter, ordinance or regulation adopted by the local public entity.

(b) The procedure so prescribed may include a requirement that a claim be presented and acted upon as a prerequisite to suit thereon. If such

requirement is included, any action brought against the public entity on the claim shall be subject to the provisions of Section 945.6 and Section 946.

(c) The procedure so prescribed may not require a shorter time for presentation of any claim than the time provided in Section 911.2.

(d) The procedure so prescribed may not provide a longer time for the board to take action upon any claim than the time provided in Section 912.4.

(e) When a claim required by the procedure to be presented within a period of less than one year after the accrual of the cause of action is not presented within the required time, an application may be made to the public entity for leave to present such claim. Subdivision (b) of Section 911.4, Sections 911.6 to 912.2, inclusive, and Sections 946.4 and 946.6 are applicable to all such claims, and the time specified in the charter, ordinance or regulation shall be deemed the "time specified in Section 911.2" within the meaning of Sections 911.6 and 946.6.

§ 935.2. Claims board or commission; establishment membership; duties; warrants  
A charter provision, or a local public entity by ordinance or resolution, may establish a claims board or commission of not less than three members to perform such functions of the governing body of the public entity under this part as are prescribed by the local public entity. A charter provision, ordinance or resolution may provide that, upon the written order of the claims board or commission, the auditor or other fiscal officer of the local public entity shall cause a warrant to be drawn upon the treasury of the local public entity in the amount for which a claim has been allowed or compromised or settled.

§ 935.4. Delegation of authority to employee of local public entity; allowance; compromise or settlement of claims; warrants

A charter provision, or a local public entity by ordinance or resolution, may authorize an employee of the local public entity to perform those functions of the governing body of the

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public entity under this part that are prescribed by the local public entity, but only a charter provision may authorize that employee to allow, compromise, or settle a claim against the local public entity if the amount to be paid pursuant to the allowance, compromise or settlement exceeds fifty thousand dollars (\$50,000). A charter provision, ordinance, or resolution may provide that, upon the written order of that employee, the auditor or other fiscal officer of the local public entity shall cause a warrant to be issued upon the treasury of the local public entity in the amount for which a claim has been allowed, compromised, or settled.

§ 935.6. Delegation of authority to state agencies to settle and pay specified claims; reports

(a) The Victim Compensation and Government Claims Board may authorize any state agency to settle and pay claims filed pursuant to subdivision (c) of Section 905.2 if the settlement does not exceed one thousand dollars (\$1,000) or that lesser amount as the board may determine, or to reject the claim and provide the notice required by Section 913. The board may require state agencies that it so authorizes to report annually to the board concerning the claims resolved pursuant to this section.

(b) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission, or agency of the state, claims against which are paid by warrants drawn by the Controller, but does not mean any judicial branch entity, as defined in Section 900.3, or any judge thereof.

§ 935.7. Department of Transportation; adjustment and payment of claims without prior approval

(a) Notwithstanding Section 935.6, the Department of Transportation may deny or adjust and pay any claim arising out of the activities of the department without the prior approval of the California Victim Compensation and Government Claims Board if both of the following conditions exist:

(1) The amount claimed is five thousand dollars

(\$5,000) or less.

(2) The Director of Finance or the Director of Transportation certifies that a sufficient appropriation for the payment of the claim exists.

(b) If the department elects not to pay any claim, the department shall provide the notice required by Section 913.

(c) Any person who submits any claim arising out of any activity of the Department of Transportation shall comply with every other applicable provision of this part relating to claims against state agencies.

§ 935.8 The Judicial Council

The Judicial Council may adjust and pay any claim arising out of the activities of a judicial branch entity or judge thereof. The Judicial Council may adopt rules of court authorizing any committee of the Judicial Council or employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this section.

**Part 4. Actions Against Public Entities and Public Employees**

**Chapter 1. General**

§ 940. Definitions governing construction of part

Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part.

§ 940.2. Board

"Board" means:

(a) In the case of a local public entity, the governing body of the local public entity.

(b) In the case of the state, except as provided by subdivision (c), the Victim Compensation and Government Claims Board.

(c) In the case of a judicial branch entity or a judge thereof, the Judicial Council.

§ 940.3. Definition of Judicial branch entity

A "judicial branch entity" is a public entity and means any superior court, court of appeals, the

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Supreme Court, the Judicial Council, or the Administrative Office of the Courts.

**§ 940.4. Local Public Entity**

"Local public entity" includes a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State, but does not include the State.

**§ 940.6. State**

"State" means the State and any office, officer, department, division, bureau, board, commission or agency of the State claims against which are paid by warrants drawn by the Controller.

**§ 942. Other remedies**

Nothing in this division shall be construed to deprive a claimant of the right to resort to writ of mandate or other proceeding against the public entity or the board or any employee of the public entity to compel payment of a claim when and to the extent that it has been allowed and is required by this division to be paid.

**§ 943. Application of part to claims or actions against regents of University of California or employees**

This part does not apply to claims or action against the Regents of the University of California nor to claims or actions against an employee or former employee of the Regents of the University of California arising out of such employment.

**§ 944. Necessity of existence of liability**

Nothing in this part imposes liability upon a public entity unless such liability otherwise exists.

**Chapter 2. Actions Against Public Entities**

**§ 945. Power to sue and be sued**

A public entity may sue and be sued.

**§ 945.2. Rules of practice**

Except as otherwise provided by law, the rules of practice in civil actions apply to actions brought

against public entities [sic].

**§ 945.3. Person charged with criminal offense; prohibition from bringing civil action for money or damages while charges pending; tolling of statute of limitations**

No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a superior court.

For the purposes of this section, charges pending before a superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code. Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

**§ 945.4. Necessity of written claim acted upon by board or deemed to have been rejected**

Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefore has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected

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by the board, in accordance with Chapters 1 and 2 of Part 3 of this division.

§ 945.6. Limitation practices on claims required to be presented in accordance with chapters 1 and 2 of part 3; persons imprisoned in state prisons

(a) Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced:

(1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail.

(2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. If the period within which the public entity is required to act is extended pursuant to subdivision (b) of Section 912.4, the period of such extension is not part of the time limited for the commencement of the action under this paragraph.

(b) When a person is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he has been sentenced to imprisonment in a state prison, the time limit for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public entity establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (a).

(c) A person sentenced to imprisonment in a state prison may not commence a suit on a cause of action described in subdivision (a) unless he presented a claim in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division.

§ 945.8. Limitation of actions on claims not required to be presented in accordance with chapters 1 and 2 of part 3

Except where a different statute of limitations is specifically applicable to the public entity, and except as provided in Sections 930.6 and 935, and action against a public entity upon a cause of action for which a claim is not required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

§ 946. Maintenance of suit barred after allowance of claim in full or in part and acceptance by claimant of amount allowed  
Where a claim that is required to be presented to a public entity in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division is so presented and action thereon is taken by the board:

(a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

(b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.

(c) If the claim is allowed in part, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the board to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

§ 946.4. Statement of public agency not on file or inaccurate; failure to present claim not bar or defense

(a) Where provision is made by or pursuant to law that no suit may be brought against a public agency as defined in Section 53050 unless and until a claim is presented to the agency, the

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failure to present a claim does not constitute a bar or defense to the maintenance of a suit against such public agency if, during the 70 days immediately following the accrual of the cause of action:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, as required by Section 53051; or

(2) A statement or amended statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of the Secretary of State and of the county clerk of each county in which the public agency then maintains an office, but the information contained therein is so inaccurate or incomplete that it does not substantially conform to the requirements of Section 53051.

(b) On any question of fact arising within the scope of paragraphs (1) and (2) of subdivision (a), the burden of proof is upon the public agency.

(c) This section is inapplicable where the presentation of a claim is required by a claims procedure established by agreement made pursuant to Section 930.2 unless the procedure so prescribed requires that the claim be presented to the governing body of the public agency or to a person listed in Section 53051.

§ 946.6. Denial of application for leave to present claim; relief from provisions of section 945.4; place of filing petition

(a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates. If the petition is filed in a court which is not a proper court for the determination of the matter, the court, on motion of any party, shall transfer the proceeding to a proper court. If an action on the cause of action to which the claim relates would be a

limited civil case, a proceeding pursuant to this section is a limited civil case.

(b) The petition shall show each of the following:

(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

(3) The information required by Section 910. The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(d) A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil

Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state. If the petition

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involves a claim arising out of alleged actions or inactions of the Department of Transportation, service of the petition and notice of the hearing shall be made on the Attorney General or the Director of Transportation. Service on the Attorney General may be accomplished at any of the Attorney General's offices in Los Angeles, Sacramento, San Diego, or San Francisco. Service on the Director of Transportation may be accomplished only at the Department of Transportation's headquarters office in Sacramento. If the petition involves a claim arising out of alleged actions or inactions of a judicial branch entity, service of the petition and notice of the hearing shall be made in accordance with the following:

(1) If the petition involves a claim arising out of alleged actions or inactions of a superior court or a judge, court executive officer, or trial court employee, as defined in Section 811.9, of the court, service shall be made on the court executive officer.

(2) If the petition involves a claim arising out of alleged actions or inactions of a court of appeals or a judge thereof, service shall be made on the Clerk/Administrator of the court of appeals.

(3) If the petition involves a claim arising out of alleged actions or inactions of the Supreme Court or a judge thereof, service shall be made on the Clerk of the Supreme Court.

(4) If the petition involves a claim arising out of alleged actions or inactions of the Judicial Council or the Administrative Office of the Courts, service shall be made on the secretariat of the Judicial Council.

(e) The court shall make an independent determination upon the petition. The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition.

(f) If the court makes an order relieving the petitioner from Section 945.4, suit on the cause of action to which the claim relates shall be filed with the court within 30 days thereafter.

§ 948. Settlement, adjustment or compromise of action by head of state agency

(a) The head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust, or compromise any pending action where the Director of Finance certifies that a sufficient appropriation for the payment of claims exists. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

(b) If no funds or insufficient funds for the payment exist, the head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust or compromise any pending action with the approval of the Department of Finance.

(c) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission or agency of the state claims against which are paid by warrants drawn by the Controller, but does not mean any "judicial branch entity" as defined in Section 940.3 or any judge thereof.

§ 948.1. The Judicial Council

The Judicial Council may settle, adjust, or compromise any pending action arising out of the activities of a judicial branch entity or judge thereof. The Judicial Council may adopt rules of court authorizing any committee of the Judicial Council or employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this section.

§ 949. Compromise, or delegation of authority to compromise; action against local public entity  
The governing body of a local public entity may compromise, or may delegate the authority to its attorney or an employee to compromise, any pending action.

Chapter 3. Actions Against Public Employees



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§ 950. Necessity for presentation of claim against public employee  
Except as otherwise provided in this chapter, a claim need not be presented as a prerequisite to the maintenance of an action against a public employee or former public employee for injury resulting from an act or omission in the scope of his employment as a public employee.

§ 950.2. Grounds for barring cause of action  
Except as provided in Section 950.4, a cause of action against a public employee or former public employee for injury resulting from an act or omission in the scope of his employment as a public employee is barred if an action against the employing public entity for such injury is barred under Part 3 (commencing with Section 900) of this division or under Chapter 2 (commencing with Section 945) of Part 4 of this division. This section is applicable even though the public entity is immune from liability for the injury.

§ 950.4. Exception to bar cause of action  
A cause of action against a public employee or former public employee is not barred by Section 950.2 if the plaintiff pleads and proves that he did not know or have reason to know, within the period for the presentation of a claim to the employing public entity as a condition to maintaining an action for such injury against the employing public entity, as that period is prescribed by Section 911.2 or by such other claims procedure as may be applicable, that the injury was caused by an act or omission of the public entity or by an act or omission of an employee of the public entity in the scope of his employment as a public employee.

§ 950.6. Necessity of written claim rejected, or deemed to have been rejected, by public entity; limitations  
When a written claim for money or damages for injury has been presented to the employing public entity:

(a) A cause of action for such injury may not be maintained against the public employee or former public employee whose act or omission caused such injury until the claim has been

rejected, or has been deemed to have been rejected, in whole or in part by the public entity.

(b) A suit against the public employee or former public employee for such injury must be commenced within the time prescribed by Section 945.6 for bringing an action against the public entity.

(c) When a person is unable to commence the suit within the time prescribed in subdivision (b) because he has been sentenced to imprisonment in a state prison, the time limited for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public employee or former public employee establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (b).

§ 950.8. Invalidity of provision of charter, ordinance or regulation requiring presentation of claim as prerequisite to suit against public employee

Any provision of a charter, ordinance or regulation heretofore or hereafter adopted by a local public entity which requires the presentation of a claim as a prerequisite to the maintenance of an action against a public employee to enforce his personal liability is invalid.

§ 951. Civil actions against public officers; sufficiency of complaint  
Notwithstanding Section 425.10 of the Code of Civil Procedure, any complaint for damages in any civil action brought against a publicly elected or appointed state or local officer, in his or her individual capacity, where the alleged injury is proximately caused by the officer acting under color of law, shall allege with particularity sufficient material facts to establish the individual liability of the publicly elected or appointed state or local officer and the plaintiff's right to recover there from.

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**Chapter 4. Special Provisions Relating to  
Actions Against the State**

§ 955. Venue; actions for taking or damaging private property for public use; other actions  
The proper court for trial of actions against the State for the taking or damaging of private property for public use is a court of competent jurisdiction in the county in which the property is situate.

Except as provided in Sections 955.2 and 955.3, upon written demand of the Attorney General made on or before answering, the place of trial in other actions shall be changed to Sacramento County.

§ 955.1. Earthquake predictions; public warning and governmental action; liability for injuries; legislative intent; basis for declaration of state of emergency or local emergency  
(a) The science of earthquake prediction is developing rapidly and, although still largely in a research stage, such predictions are now being initiated and are certain to continue into the future. Administrative procedures exist within the Office of Emergency Services to advise the Governor on the validity of earthquake predictions. Numerous important actions can be taken by state and local governments and special districts to protect life and property in response to earthquake predictions and associated warnings. It is the intent of this legislation to insure that such actions are taken in the public interest by government agencies acting in a responsible manner without fear of consequent financial liabilities.

(b) The Governor may, at his or her discretion, issue a warning as to the existence of an earthquake or volcanic prediction determined to have scientific validity. The state and its agencies and employees shall not be liable for any injury resulting from the issuance or nonissuance of a warning pursuant to this subdivision or for any acts or omissions in fact gathering, evaluation, or other activities leading up to the issuance or nonissuance of a warning.

(c) Public entities and public employees may, on the basis of a warning issued pursuant to

subdivision (b), take, or fail or refuse to take, any action or execute or fail or refuse to execute any earthquake or volcanic prediction response plan with relation to the warning which is otherwise authorized by law. In taking, or failing or refusing to take such action, neither public entities nor public employees shall be liable for any injuries caused thereby or for any injuries resulting from the preparation of, or failure or refusal to prepare, any earthquake hazard or damage prediction maps, plans for evacuation of endangered areas, and other plan elements.

(d) An earthquake or volcanic warning issued by the Governor pursuant to subdivision (b) is a sufficient basis for a declaration of a state of emergency or local emergency as defined by Section 8558. Public entities and public employees shall be immune from liability in accordance with all immunity provisions applicable during such state of emergency or local emergency.

§ 955.2. Venue in actions for death or injury to persons or personal property  
Notwithstanding any other provision of law, where the State is named as a defendant in any action or proceeding for death or injury to person or personal property and the injury or the injury causing death occurred within this State, the proper court for the trial of the action is a court of competent jurisdiction in the county where the injury occurred or where the injury causing death occurred. The court may, on motion, change the place of the trial in the same manner and under the same circumstances as the place of trial may be changed where an action is between private parties.

§ 955.3. Venue; action or proceeding by local entity against state; change to Sacramento County  
Notwithstanding any provision of law, when a city, county, or city and county, or local agency is a plaintiff in an action or proceeding against the State of California, the action may be tried in any city or county, or city and county, where the city, county, or city and county, or local agency is situated.

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The Attorney General may, on behalf of the State of California, before answering, move to change the place of trial to Sacramento County in accordance with the provisions of Section 397 of the Code of Civil Procedure.

For the purposes of this section, "local agency" means any governmental district, board, or agency, or any other local governmental body or corporation, or elected local public official, but shall not include the State of California or any of its agencies, departments, commissions, or boards, or elected public officials in the executive branch of the state government.

§ 955.4. Service of summons generally; defense by attorney general

Except as provided in Sections 811.9, 955.6, 955.8, and 955.9:

(a) Service of summons in all actions on claims against the state shall be made on the Attorney General.

(b) The Attorney General shall defend all actions on claims against the state.

§ 955.6. Actions for taking or damaging private property; work done by department of transportation; service of summons; defense  
In actions for the taking or damaging of private property for public use within the meaning of Section 19 of Article I of the Constitution on claims arising out of work done by the Department of Transportation:

(a) Service of summons shall be made on the Attorney General or the Director of Transportation.

(b) The defense shall be conducted by the attorney for the Department of Transportation.

§ 955.8. Actions for taking or damaging private property; work done by department of water resources; service of summons; defense  
In actions for the taking or damaging of private property for public use within the meaning of Section 14 of Article I of the Constitution on claims arising out of work done by the Department of Water Resources:

(a) Service of summons shall be made on the Attorney General or the Director of Water

Resources.

(b) The defense shall be conducted by the legal counsel of the department, if authorized by the Attorney General pursuant to Section 127 of the Water Code; otherwise the defense shall be conducted by the Attorney General.

§ 955.9. Action on claims against judicial branch entity

In actions on claims against a judicial branch entity, service of summons shall be made on:

(a) The court executive officer, in actions on claims against a superior court or a judge thereof.

(b) The Clerk/Administrator of the Court of Appeal, in actions on claims against a court of appeals or a judge thereof.

(c) The Clerk of the Supreme Court, in actions on claims against the Supreme Court or a judge thereof.

(d) The Secretariat of the Judicial Council, in actions on claims against the Judicial Council or the Administrative Office of the Courts.

§ 956. Joinder of state

in certain actions involving real property in which state has remainder or undivided fractional interest; complaint; process; powers of attorney general

Whenever the State has acquired by gift, under the will of a decedent or through a decree of distribution in the estate of a decedent, or otherwise than by purchase or the exercise of the power of eminent domain, a remainder interest, whether contingent or vested, in real property, or an undivided fractional interest in real property, the holder or holders of the precedent estate or of other undivided fractional interests, as the case may be, may join the State as a party defendant in any action to partition said property, brought pursuant to the Code of Civil Procedure or in any action in declaratory relief brought pursuant to the Code of Civil Procedure. In the complaint in any such action the nature of the interest of the State shall be set forth and the manner in which the same was acquired and process in any such action shall be served upon the Attorney General and the Director of Finance. In any such action the Attorney General shall represent the State

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and may on behalf of the State execute such stipulations, disclaimers or consents as may be appropriate.

Chapter 5 omitted

Chapter 6 omitted

Part 5. Payment Of Claims and Judgments

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§ 965. Designation of fund; payment of claim; report to legislature in event of insufficient appropriation

(a) Upon the allowance by the Victim Compensation and Government Claims Board of all or part of a claim for which the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists, and the execution and presentation of documents the board may require which discharge the state of all liability under the claim, the board shall designate the fund from which the claim is to be paid and the state agency concerned shall pay the claim from that fund. If there is no sufficient appropriation for the payment available, the board shall report to the Legislature in accordance with Section 912.8. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

(b) Notwithstanding subdivision (a), if there is no sufficient appropriation for the payment of claims, settlements, or judgments against the state arising from an action in which the state is represented by the Attorney General, the Attorney General shall report the claims, settlements, and judgments to the Chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Budget, who shall cause to be introduced legislation appropriating funds for the payment of the claims, settlements, or judgments.

(c) Notwithstanding subdivision (a) or (b), claims, settlements, or judgments arising out of the activities of a judicial branch entity, as defined by Sections 900.3 and 940.3, or a judge thereof may be paid if the Judicial Council authorized payment and the Administrative Director of the Courts certifies that sufficient funds for that payment exist from funds allocated to settlement, adjustment, and compromise of actions and claims. If sufficient funds for payment of settlements or judgments do not exist, the Administrative Director of the Courts shall report the settlements and judgments to the Chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Budget, who shall cause to be introduced legislation appropriating funds for the payment of the settlements or judgments. If sufficient funds for payment of claims do not exist, the Administrative Director of the Courts shall report the claims to the Victim Compensation and Government Claims Board, which shall have 90 days to object to payment. The Administrative Director of the Courts shall confer with the chairperson of the Victim Compensation and Government Claims Board regarding any objection received during the 90-day period. If the Victim Compensation and Government Claims Board withdraws the objection, or if no objection was received, the Administrative Director of the Courts shall report the claims to the Chairperson of either the Senate Committee on Appropriations or the Assembly Committee on the Budget, who shall cause to be introduced legislation appropriating funds for the payment of the claims. The Judicial Council may authorize any committee of the Judicial Council or any employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this section. The Administrative Director of the Courts may designate an executive staff member of the Administrative Office of the Courts to perform the functions of the Administrative Director of the Courts under this section.

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§ 965.1. Authority delegated to executive officer to allow or reject claims  
Pursuant to Section 13909, the State Board of Control may delegate to the executive officer the authority to allow a claim filed pursuant to subdivision (c) of Section 905.2 where the settlement amount of that claim does not exceed fifty thousand dollars (\$50,000), or to reject any claim as so described.

§ 965.2. Drawing of warrant for payment of final judgment or settlement  
(a) The Controller shall draw a warrant for the payment of any final judgment or settlement against the state whenever the Director of Finance certifies that a sufficient appropriation for the payment of the judgment or settlement exists. Claims upon those judgments and settlements are exempt from Section 925.6. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.  
(b) Notwithstanding subdivision (a), the Controller shall draw a warrant for the payment of any final judgment or settlement based on claims arising out of the activities of a judicial branch entity, as defined by Sections 900.3 and 940.3, or a judge thereof, whenever the Administrative Director of the Courts certifies that sufficient funds for that payment exist from funds allocated to settlement, adjustment, and compromise of actions and claims. Claims upon those judgments and settlements are except from Section 925.6. Claims arising out of the activities of a judicial branch entity, as defined by Sections 900.3 and 940.3, or a judge thereof, may be paid if the Administrative Director of the Courts certifies that sufficient funds for the payment exist from funds allocated to settlement, adjustment, and compromise of actions and claims. The Administrative Director of the Courts may designate an executive staff member of the Administrative Office of the Courts to perform the certification of funds pursuant to this section.

§ 965.3. Notice of payment; reversion of funds  
(a) The Attorney General shall notify the Controller in writing when all claims for which an appropriation is made to the Department of Justice or the Attorney General pursuant to subdivision (b) of Section 965 have been paid. The Controller shall, at the close of the fiscal year in which notice of payment is received from the Attorney General, cause any undisbursed balance to revert to the fund from which the appropriation was made.  
(b) Whenever an appropriation exceeds the actual amount necessary to satisfy a settlement in accordance with the settlement agreement or a judgment, the excess shall revert to the fund from which the appropriation was made.

§ 965.4. Report of judgments or settlements to legislature  
The Governor shall report to the Legislature, at each session, all judgments or settlements against the State not theretofore reported.

§ 965.5. Enforcement of money judgment against state or state agency; time; law governing  
(a) A judgment for the payment of money against the state or a state agency is enforceable until 10 years after the time the judgment becomes final or, if the judgment is payable in installments, until 10 years after the final installment becomes due.  
(b) A judgment for the payment of money against the state or a state agency is not enforceable under Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure but is enforceable under this chapter.

§ 965.6. No payment or offset of claim; settlement or judgment against state, officers or employees; exception; conditions  
Notwithstanding any other provision of law, neither the state, nor a judicial branch entity, nor any officers or employees thereof, may be required by any court in any proceeding to pay or offset a tort liability claim, settlement, or judgment for which the state or judicial branch entity is liable unless one of the following conditions exists:

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(a) The Legislature has authorized the payment or offset of the specific tort liability claim, settlement, or judgment.

(b) The Director of Finance, or the Director of Transportation for claims arising out of the activities of the Department of Transportation, has certified that a sufficient appropriation for the payment of the claim, settlement, or judgment or to provide for that offset exists. This subdivision does not apply to claims arising out of the activities of a judicial branch entity or a judge thereof.

(c) In the case of claims arising out of the activities of a judicial branch entity, as defined in Sections 900.3 and 940.3, or a judge thereof, the Administrative Director of the Courts has certified that sufficient funds for payment of the claim, settlement, or judgment, or to provide for that offset, exist from funds allocated to settlement, adjustment, and compromise of pending actions and claims. The Administrative Director of the Courts may designate an executive staff member of the Administrative Officer of the Courts to perform the certification of funds pursuant to this section.

§ 965.65. Prevention of future claims; reports

(a) If a request is made for certification of availability of funds, approval of a settlement, or inclusion of a claim in a claims bill pursuant to Section 948, 965, or 965.2 for a claim in excess of thirty-five thousand dollars (\$35,000) against the state which arose from the activities of any state agency or employee, the agency shall report to the Director of Finance concerning any action it has taken or proposes to take to prevent the future occurrence of circumstances similar to those upon which the claim was based, including any imposition of disciplinary action.

(b) This section does not apply to a judicial branch entity, as defined in Sections 900.3 and 940.3, or claims arising out of the activities of a judicial branch entity or a judge or employee thereof. However, in the case of the categories of claims and settlements described in subdivision (a) arising out of activities of a judicial branch entity or a judge, court executive officer, or employee thereof, the Administrative

Director of the Courts shall report to the Judicial Council concerning any action the Administrative Office of the Courts has taken or proposed to take to prevent the future occurrence of circumstances similar to those upon which the claim was based, including any imposition of disciplinary action.

§ 965.7. Compelling state, officer or employee to act; writ of mandate; legislative direction

(a) A writ of mandate is an appropriate remedy to compel the state, or an officer or employee of the state, to perform any act required by this chapter.

(b) Nothing in this division affects the discretion of the Legislature in determining whether or not to:

(1) Make an appropriation for the payment of a claim, compromise, settlement, or judgment or to provide an offset for a claim, compromise, settlement, or judgment.

(2) Authorize such a payment or offset.

§ 965.8. Certification of existence of sufficient appropriation for payment or offset; writ of mandate

Where any provision of this division requires a certificate of the Director of Finance or the Director of Transportation that a sufficient appropriation exists for the payment of a claim, settlement, compromise, or judgment or requires a certificate of the Director of Finance or the Director of Transportation that a sufficient appropriation exists to provide for an offset, a writ of mandate is an appropriate remedy to compel the Director of Finance or the Director of Transportation to so certify if a sufficient appropriation in fact exists for that purpose.

§ 965.9. Regents of University of California; inapplicability of chapter to claims, settlements and judgments

This chapter does not apply to claims, settlements, and judgments against the Regents of the University of California.

Miscellaneous Provisions

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§ 12419.5. Offsets; failure to file claim  
The Controller may, in his or her discretion, offset any amount due a state agency from a person or entity, against any amount owing that person or entity by any state agency. The Controller may deduct from the claim, and draw his or her warrants for the amounts offset in favor of the respective state agencies to which due, and, for any balance, in favor of the claimant. Whenever insufficient to offset all amounts due state agencies, the amount available shall be applied in such manner as the Controller, in his or her discretion, shall determine. If, in the discretion of the Controller, the person or entity refuses or neglects to file his or her claim within a reasonable time, the head of the state agency owing the amount shall file the claim on behalf of that person or entity. If approved by the Controller, the claim shall have the same force and effect as though filed by that person or entity. The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing that person or entity after any offset as provided in this section. For purposes of this section, an amount owing to a person or entity by any state agency shall include any tax refund. This section shall not apply to payment of on-line game prizes of ninety-nine dollars (\$99) or lower by California State Lottery Retailers pursuant to subdivision (a) of Section 8880.32.

§ 16302.1. Overpayments of \$10 or less; disposition  
Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that this amount includes an overpayment of ten dollars (\$10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of the overpayment may be disposed of in either of the following ways:  
(a) The state agency responsible for the collection to which the overpayment relates may apply the amount of the overpayment as a

payment by the person on any other taxes, penalties, interest, license or other fees, or any other amount due the state from that person if the state agency is responsible by law for the collection to which the overpayment is to be applied as a payment.

(b) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of the overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which the collection, exclusive of overpayments, is required by law to be deposited. The State Board of Control may adopt rules and regulations to permit state agencies to retain these overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due, and the retained overpayments shall belong to the state.

Except as provided in the foregoing paragraph, this section shall not affect the right of any person making overpayment of any amount to the state to make a claim for refund of the overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

§ 17070. Nonpayment for one year as grounds for cancellation

Whenever any warrant issued by the Controller is unpaid for one year after it becomes payable, sufficient unapplied moneys having been available for the payment of the warrant and for the payment of all senior obligations, the Controller shall cancel it.

**CODE OF CIVIL PROCEDURE**

§ 1325. Unclaimed property fund; continuous appropriation; purposes  
Notwithstanding Section 13340 of the Government Code, all money in the Unclaimed Property Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for expenditure for any of the following purposes:

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- (a) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund.
- (b) For payment of the cost of title searches and appraisals incurred by the Controller covering real or personal property held in the name of an account in such fund.
- (c) For payment of the cost incurred by the Controller covering indemnity bonds required in order to have duplicate certificates of ownership issued in order to replace lost certificates, covering personal property held in the name of an account in such fund.
- (d) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner, pursuant to the provisions of trust deeds, mortgages, or other liens on real property held in the name of an account in such fund.
- (e) For payment of costs incurred by the Controller for the repair, maintenance and upkeep of real and personal property held in the name of an account in such fund.
- (f) For payment of costs of official advertising in connection with the sale of real or personal property held in the name of an account in such fund.
- (g) For payment to taxing agencies of the amounts deducted by the Controller from allowed and approved claims, in accordance with the provisions of subdivision (c) of Section 4986.5 of the Revenue and Taxation Code.
- (h) For transfer to the Inheritance Tax Fund, on order of the Controller, of the amount of any inheritance taxes determined to be due and payable to the state by any claimant, with respect to any real or personal property, including cash, claimed by that person under the provisions of this title.
- (i) For payment and delivery to claimants of money or other property held to the credit, or in the name, of an account in such fund, under the provisions of this title.
- (j) For transfer to the General Fund, on order of the Controller, of any money or other property in the Unclaimed Property Fund which becomes permanently escheated to the state under the provisions of this title.

Any expenditure made by the Controller pursuant to the provisions of this section shall be charged against any balance credited to the particular account in the Unclaimed Property Fund, in the name of which is held the real or personal property for which the expenditure is made; and if sufficient balance is not available in such account, the expenditure may be made from any appropriation from the General Fund for the support of the Controller, or, in the case of official advertising, from any appropriation available therefore, to be reimbursed from the proceeds of any subsequent sale of the property for which such expenditure is made.

**§ 1345. Unclaimed property fund; refund; order of controller; approval**

Whenever any person has erroneously delivered any unclaimed money or other unclaimed property to the State or any officer or employee thereof, and such money or other property is deposited in the Unclaimed Property Fund or is held by the Controller or Treasurer in the name of any account in such fund pursuant to the provisions of this title, such money or other property delivered in error may be refunded or returned to such person on order of the Controller, with the approval of the State Board of Control.

**§ 1346. General fund; transfer to unclaimed property fund; adjustment of records; refund**

Whenever any person has erroneously delivered any unclaimed money or other unclaimed property to the state or any officer or employee thereof, and such money or other property is deposited in, or transferred to, the General Fund, or is held by the Controller or Treasurer in the name of such fund, pursuant to the provisions of this title, such money or other property delivered in error, if cash, shall on order of the Controller, be transferred from the General Fund to the Unclaimed Property Fund, and, if other than cash, the records of the Controller and Treasurer shall be adjusted to show that it is held in the name of the proper account in the Unclaimed Property Fund; and any such money or other property may be refunded or returned to such



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person on order of the Controller, with the  
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Penal Code

Indemnity for Erroneously Convicted Persons

§ 4900. Claim against state, persons authorized to present; presentation

Any person who, having been convicted of any crime against the State of California amounting to a felony, and having been imprisoned therefore in a State prison of this State shall hereafter be granted a pardon by the Governor of this State for the reason that the crime with which he was charged was either not committed at all or, if committed, was not committed by him, or who, being innocent of the crime with which he was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he was imprisoned, may, under the conditions hereinafter provided, present a claim against the State to the State Board of Control for the pecuniary injury sustained by him through such erroneous conviction and imprisonment.

§ 4901. Claim against state, formalities; time for presentation

Such claim, accompanied by a statement of the facts constituting the claim, verified in the manner provided for the verification of complaints in civil actions, must be presented by the claimant to the Board of Control within a period of six months after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment, and at least four months prior to the next meeting of the Legislature of this State; and no claim not so presented shall be considered by the Board of Control.

§ 4902. Hearing on claim; fixing time and place; notice

Upon presentation of any such claim, the Board of Control shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General of this State at least 15 days prior to the time fixed for such hearing.

§ 4903. Hearing on claim; proof

On such hearing the claimant shall introduce evidence in support of the claim, and the Attorney General may introduce evidence in opposition thereto. The claimant must prove the facts set forth in the statement constituting the claim, including the fact that the crime with which he was charged was either not committed at all, or, if committed, was not committed by him, the fact that he did not, by any act or omission on his part, either intentionally or negligently, contribute to the bringing about of his arrest or conviction for the crime with which he was charged, and the pecuniary injury sustained by him through his erroneous conviction and imprisonment.

§ 4904. Report of findings to legislature; recommendation; limitation on amount of recovery

If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant did not, by any act or omission either intentionally or negligently, contribute to the bringing about of his or her arrest or conviction, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the State Board of Control shall report the facts of the case and its conclusions to the next Legislature of this state, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury; but the amount of the appropriation recommended shall be a sum equivalent to one hundred dollars (\$100) per day of incarceration served subsequent to the claimant's conviction and that appropriation shall not be treated as gross income to the recipient under the provisions of the Revenue and Taxation Code.

§ 4905. Copy of report and recommendation to controller

The Board of Control shall make up its report and recommendation and shall give to the Controller of this State a statement showing its

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recommendations for appropriations under the provisions of this chapter, as provided by law in cases of other claimants against this State for which no appropriations have been made.

§ 4906. Rules and regulations; promulgation  
The Board of Control is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect the provisions of this chapter.

**Immunity from Liability for Reporting  
Suspected Child Abuse**

§ 11172. Immunity from liability; liability for false reports; attorneys' fees; failure to report; offense

(a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or

neglect shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the State Board of Control for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

**Public Contract Code  
(Bid Protests)  
(See also 2 CCR §§ 870.1-874.1)**

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§ 10306. Notification of lowest bidder when not awarded contract; protest

Whenever a contract or purchase order under this article is not to be awarded to the lowest bidder, the bidder shall be notified 24 hours prior to awarding the contract or purchase order to another bidder. Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the department at least 24 hours prior to awarding the contract or purchase order. If prior to making the award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relative to the protest. In computing the 24-hour periods provided for in this section Saturdays, Sundays and legal holidays shall be excluded.

Within 10 days after filing a protest, the protesting bidder shall file with the State Board of Control a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

§ 10780.5. Bid for a public works contract

The trustees may require a bid for a public works contract to include prices for items that maybe added to, or deducted from, the scope of work in the contract for which the bid is being submitted. Whenever additive or deductive items are included in a bid, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided by subdivision (a) will be used:

(a) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.

(b) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically

identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

(c) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items, in the solicitation, and added to, or subtracted from, the base contract, are less than, or equal to, a funding amount publicly disclosed by the trustees before the first bid is opened.

(d) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.

A responsible bidder who submitted the lowest bid as determined by this section shall be awarded the contract, if it is awarded. This section does not preclude the trustees from adding to or deducting from the contract any of the additive or deductive items after the lowest responsible bidder has been determined.

(e) Nothing in this section shall preclude the prequalification of subcontractors.

§ 12102(h). Mandatory policies and procedures for acquisition and disposal (*Protests re Information Technology*)

(h) Protest procedures shall be developed to provide bidders an opportunity to protest any formal, competitive acquisition conducted in accordance with this chapter. The procedures shall provide that protests must be filed no later than five working days after the issuance of an intent to award. Authority to protest may be limited to participating bidders. The Director of General Services, or a person designated by the director, may consider and decide on initial protests. A decision regarding an initial protest shall be final. If prior to the last day to protest, any bidder who has submitted an offer files a protest with the department against the awarding of the contract on the ground that his or her bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, the contract shall not be

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awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting bidder shall file with the State Board of Control a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

**Welfare and Institutions Code**

**Immunity from Liability for Reporting  
Suspected Elder or Dependent Adult Abuse**

§ 15634. Civil or criminal liability of reporter, attorneys' fees

(a) No care custodian, clergy member, health practitioner or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of

known or suspected elder or dependent adult abuse, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult abuse shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report elder or dependent adult abuse, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the State Board of Control a claim for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

**Miscellaneous Uncodified Statutes**

**Chapter 127, 2000**

Section 33 (a) The Department of General Services (DGS) shall commit itself to achieve improved levels of performance, as specified in this section, by focusing its efforts on enhancing the value of the services it delivers.

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(b) Pursuant to its strategic plan, DGS committed itself to providing the following two categories of services by July 1, 1998: (1) services that the Legislature or Governor requires state agencies to purchase from DGS, and (2) services that state agencies are not required to purchase from DGS, but that DGS can provide on a cost-competitive basis.

(c) Notwithstanding any other provision of law, the Director of General Services or his or her designee, in lieu of the Director of Finance, may approve DGS Form 22 and DGS Form 220, including the extension of time to expend transferred funds, the transfer of funds from one work order to another, and the Return of Funds Document.

(d) Notwithstanding Chapter 3 (commencing with Section 13940) of Part 4 of Division 3 of Title 2 of the Government Code, the Director of General Services or his or her designee may approve "relief from accountability" for debts owed to DGS up to five thousand dollars (\$5,000) when DGS determines it cannot collect the debts or when the cost of collection exceeds the amount of the debt.

(e) Notwithstanding Section 2807 of the Penal Code, the Director of General Services or his or her designee may procure goods from the private sector even though the goods may be available from the Prison Industry Authority, when in his or her discretion, it is cost-beneficial to do so and if the director or his or her designee continues to include the authority in soliciting quotations for goods.

(f) Notwithstanding subdivision (a) of Section 948 and Section 965 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may certify funds for payment of all legal settlements and tort claims for which DGS already has sufficient expenditure authority and funds without the need for augmentation.

(g) Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Printing for its printing needs and the Office of State Printing may offer printing

services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government.

(h) Notwithstanding Section 14851 of the Government code, the Office of State Printing may accept paid advertisements in state publications or in publications promoting an Office of State Printing supported project or program, except that the Office of State Printing may not accept or publish any paid political advertising.

(i) Notwithstanding Section 965.2 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may certify funds for payment of all legal court settlements for projects funded from the Architecture Revolving Fund, if a sufficient fund balance exists in the work order to pay the claim and the payment does not require a budget augmentation to complete the project.

(j) Notwithstanding Section 14957 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may approve the deposit of checks directly into the Architecture Revolving Fund. DGS shall notify the Department of Finance within 30 days of the date DGS makes such a deposit.

(k) This section shall remain in effect only until the effective date of the Budget Act of 2001 or June 30, 2001, whichever occurs first.

**§ 13001. Payment of Special Election Expenses**

(a) Except as provided in subdivision (b), all expenses authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not

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THE CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
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Tort Claims Act  
Part 3. Claims Against Public Entities**

utilize the services of the county or city purchasing agent.

(b) On and after January 1, 1996, all expenses authorized and necessarily incurred in the preparation for and conduct of elections proclaimed by the Governor to fill a vacancy in the office of Senator or Member of the Assembly, or to fill a vacancy in the office of United States Senator or Representative in the United States House of Representatives, shall be paid by the state. If an election proclaimed by the Governor to fill a vacancy in an office specified in this subdivision is consolidated with any other local election, only those additional expenses directly related to the election proclaimed by the Governor to fill a vacancy in the office shall be paid by the state.

(c) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2005, deletes or extends that date.

**13001. Payment of Special Election Expenses**

(a) All expenses authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

(b) This section shall become operative on January 1, 2005.